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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,215	09/08/2003	Chikara Yamashita	03-013	7492

7590

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EXAMINER

LUGO, CARLOS

ART UNIT

PAPER NUMBER

3676

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/656,215	Applicant(s) YAMASHITA, CHIKARA	
	Examiner Carlos Lugo	Art Unit 3676	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 and 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on December 5, 2005. In order to correct some informality in the claims, a new non-final Office Action has been made on record.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
3. **Claims 1-6 and 10-12 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites that the jamb element comprises first and second constraining means and that the door element includes engaging means and retaining means.

Further, claim 1 recites that the engaging means are for engaging either the first or the second constraining means or both. Also, that the retaining means are for maintaining the engaging means within the first and second constraining means.

It is unclear what the applicant is trying to claim as his invention by these limitations. According to the current specification, the first and second constraining means are elements 38 and 46. The engaging means is element 18 and the retaining means is element 20.

Then, it is unclear how the engaging means 18 engages the second constraining means 46. As stated in the specification, the second constraining means only

engages the retaining means 20 closely, not the engaging means (Page 12 Lines 14-16). The engaging means 18 only engages the first constraining means 38.

Also, it is unclear how the retaining means 20 maintain the engaging means 18 within the first and the second constraining means.

Therefore, in order to continue with the examination, the examiner will give the broadest possible interpretation to the limitations. Appropriate correction and explanation is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-3 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 773,579 to De Mayo.

Regarding claim 1, De Mayo discloses a door security latch comprising a jamb element. The jamb element comprises a jamb base plate (f); a first constraining means (c3) for limiting the distance to which a door may be opened to a first opening distance; and a second constraining means (c5) for limiting the distance to which a door may be opened to a second distance. The second opening distance is smaller than the first opening distance.

The door security latch further comprises a door element. The door element comprises a door element base plate (a); engaging means (b1) for engaging a

constraining means (any c5) of the jamb element; and retaining means (b2) for engaging a constraining means (any c5 or c3).

As to claim 2, De Mayo discloses that the engaging means comprises a projecting arm (b).

As to claim 3, De Mayo discloses that the retaining means comprises a substantially spherical member (b3).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 4 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 773,579 to De Mayo as applied to claims 1-3 above, and further in view of US Pat No 4,900,075 to Smith.

De Mayo discloses that the first constraining means (c3) comprises a first yoke (c2). However, De Mayo fails to disclose that the yoke is pivotally attached to lugs on the front face of the jamb base plate. De Mayo discloses that the first yoke (c2) is pivotally mounted to the jamb base plate.

Smith teaches that it is well known in the art to have a yoke member (16) that is pivotally attached to lugs on the front face of the jamb base plate (Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the yoke member pivotally connected to lugs at the base

plate, as taught by Smith, into a device as described by De Mayo, because the fact that how is pivotally connected the yoke with respect to the base plate is considered as a design consideration that will not affect the mechanism of the latch.

8. **Claim 5 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 773,579 to De Mayo in view of US Pat No 4,900,075 to Smith as applied to claim 4 above, and further in view of US Pat No 1,154,862 to Hoagland.

De Mayo, as modified by Smith, fails to disclose that the arm (b) is pivotally attached to the door base plate.

Hoagland teaches that it is well known in the art to have an arm (A) that is pivotally attached (9) to a door base plate (3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the arm pivotally attached to the door base plate, as taught by Hoagland, into a device as described by De Mayo, as modified by Smith, in order to give the arm the flexibility to engage the yoke member.

***Allowable Subject Matter***

9. **Claims 6 and 10 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
10. **Claims 11 and 12 would also be allowed** because the claims depend from claim 10.

***Response to Arguments***

11. Applicant's arguments filed on December 5, 2005 have been fully considered but they are not persuasive.

First, in order to correct informality in claim 1, a 112nd paragraph rejection has been made on record.

Second, as to applicant's arguments that De Mayo fails to disclose that the engaging means function to engage either the first or second or both constraining means of the jamb element (Page 12 Line 5), the argument is not persuasive.

As stated before, neither the applicant discloses this limitation. According to the current specification, the first and second constraining means are elements 38 and 46. The engaging means is element 18 and the retaining means is element 20.

It is unclear how the engaging means 18 engages the second constraining means 46. As stated in the specification, the second constraining means 46 only engages the retaining means 20 closely, not the engaging means (Page 12 Lines 14-16, Figures 8 and 10). The engaging means 18 only engages the first constraining means 38. Therefore, the arguments are not persuasive and the rejection in view of De Mayo, as interpreted by the examiner, is maintained.

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

A handwritten signature in black ink, appearing to read 'CL' followed by a horizontal line.

Carlos Lugo  
Patent Examiner  
AU 3676

January 9, 2006